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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Section 309(j)) PP Docket No. 93-253
of the Communications Act -)
Competitive Bidding)

To: The Commission

REPLY OF
MINNESOTA EQUAL ACCESS NETWORK SERVICES, INC.
AND SOUTH DAKOTA NETWORK, INC.

Minnesota Equal Access Network Services, Inc. ("MEANS") and South Dakota Network, Inc. ("SDN"), by their attorneys and pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429 (1993), submit this reply to the comments filed by BET Holdings, Inc. ("BHI") and the United States Telephone Association ("USTA") concerning the petitions for reconsideration of the Commission's Fifth Report and Order, FCC 94-178, released July 15, 1994 [hereinafter Fifth Report].

I. INTEREST OF MEANS AND SDN

MEANS and SDN operate centralized equal access systems which serve independent telephone companies throughout rural Minnesota and South Dakota, respectively. MEANS and its member rural telephone companies, and SDN and its member rural telephone companies, are interested in providing PCS.

MEANS and SDN filed a Petition for Partial Reconsideration of the Fifth Report, requesting the Commission to give bidding

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credits to rural telephone companies, in recognition of the capital intensive nature of providing broadband PCS to rural areas and in order to balance the opportunities the various designated entities will have to obtain capital. BHI opposes MEANS' and SDN's request, asserting that rural telephone companies do not face limited access to capital.¹ MEANS and SDN submit that rural telephone companies will confront difficulties in obtaining capital to finance their PCS licenses just as other designated entities will, and as agreed to by USTA,² should be eligible for the same economic incentives, including bidding credits.

II. THE COMMISSION SHOULD PROVIDE RURAL TELEPHONE COMPANY BIDDING CREDITS

BHI gives three reasons for opposing MEANS' and SDN's request for rural telephone company bidding credits. None of BHI's arguments have merit, however.

First, BHI contends that the below-market financing support from the Rural Electrification Administration (REA) and Universal Service Fund (USF) support "more than compensate" rural telephone companies for the lack of bidding credits.³ This argument is factually incorrect. REA and other traditional sources of financing for rural telephone companies (such as Rural Telephone

¹ BHI Comments at 16-17.

² USTA Comments at 2-3.

³ BHI Comments at 16.

Finance Cooperative) have stated that they will not provide financing for the auction price of PCS licenses. Thus, although these sources may be available for financing the build-out of PCS systems, they do not alleviate the need for bidding credits for the PCS license itself, any more than the business loans available through the Small Business Administration (SBA) have alleviated the need for bidding credits for small businesses. Moreover, Congress stated that small businesses, businesses owned by minorities and/or women, and rural telephone companies should be considered for bidding credits, when Congress was well aware of the SBA and REA.⁴

BHI also is incorrect in asserting that the availability of USF support compensates rural telephone companies for not receiving bidding credits. USF support simply allows rural telephone companies in high cost areas to maintain reasonable local telephone service rates by recovering more expenses from the interstate jurisdiction.⁵ Not all rural telephone companies receive USF support. The fact that some rural telephone companies can keep local rates reasonable because of USF support does not compensate them for lack of bidding credits for PCS licenses. Whether a rural telephone company receives USF support for its wireline service is unrelated to its need for financing to provide PCS service.

⁴ 47 U.S.C. § 309(j)(4)(D).

⁵ See Decision and Order (Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board), 96 FCC 2d 781, 794 (1984).

BHI's second reason for opposing rural telephone company bidding credits is the availability of partitioning.⁶ Such an argument essentially assumes that partitioning is a substitute for bidding credits, and is absurd on its face. Partitioning will not help rural telephone companies win licenses at auction, and, as a practical matter, may not result in rural telephone companies acquiring PCS licenses after the auction process, since it is a matter of negotiation with the licensee.⁷ By contrast, bidding credits would assist rural telephone companies with attracting capital,⁸ would provide the economic incentives required under Section 309(j)(4)(D) of the Act,⁹ and would be guaranteed to be available. Thus, partitioning and bidding credits are not substitutes for each other, and while the availability of partitioning to rural telephone companies is certainly a step in the right direction, it can hardly make up for the competitive disability they will suffer from, without bidding credits, in the forthcoming broadband auctions.

⁶ BHI Comments at 16.

⁷ Partitioning is not guaranteed to be available since it depends on the winning bidder offering reasonable terms to the rural telephone company. Also, partitioning may not be a viable option if the rural telephone company's service area is not economically viable as a stand-alone service area. Furthermore, partitioning is not available outside a rural telephone company's existing service area. Thus, while partitioning may facilitate the provision of service to many rural areas, some rural telephone companies may still require economic opportunities in the auction itself to assist them in providing service to rural areas. See MEANS and SDN Petition at 7.

⁸ Fifth Report, para. 132.

⁹ 47 U.S.C. § 309(j)(4)(D).

BHI's final reason for opposing rural telephone company bidding credits is its assertion that "rural telephone companies do not face limited access to capital."¹⁰ However, rural telephone companies will have the same problems obtaining capital as the other designated entities, and as stated by USTA, should be given the same economic opportunities as the other designated entities.¹¹ Moreover, due to the capital intensive nature of providing service to rural areas, rural telephone companies could have even greater difficulty obtaining the financing needed for the auction price and for construction costs for providing broadband PCS in rural areas.

In sum, rural telephone company bidding credits comport with congressional legislation, and are mandated by the capital challenges facing rural telephone companies. BHI's arguments are factually incorrect and do not detract from these conclusions.

CONCLUSION

For the foregoing reasons, MEANS and SDN agree with USTA's support for such bidding credits, and respectfully request the Commission to reject BHI's opposing comments. MEANS and SDN also respectfully request the Commission to establish bidding credits

¹⁰ BHI Comments at 17.

¹¹ USTA Comments at 2.

specifically for rural telephone companies participating in the
broadband PCS auction.

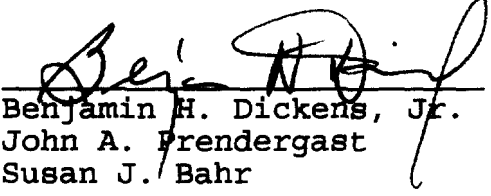
Respectfully submitted,

**MINNESOTA EQUAL ACCESS NETWORK
SERVICES, INC.**

and

SOUTH DAKOTA NETWORK, INC.

By


Benjamin H. Dickens, Jr.
John A. Prendergast
Susan J. Bahr

Their Attorneys

Blooston, Mordkofsky,
Jackson & Dickens
2120 L Street, N.W.
Washington, D.C. 20037
(202) 659-0830

Dated: September 22, 1994

CERTIFICATE OF SERVICE

I, Christa L. Sanden, hereby certify that I am an employee of Blooston, Mordkofsky, Jackson & Dickens, and that on this 22d day of September, 1994, I caused mailed postage-prepaid, by U.S. first class mail, a copy of the foregoing **"Reply of Minnesota Equal Access Network Services, Inc. and South Dakota Network, Inc."** to the following:

*Chairman Reed Hundt
Federal Communications Commission
1919 M Street, NW Room 814
Washington, DC 20554

*Commissioner James Quello
Federal Communications Commission
1919 M Street, NW Room 802
Washington, DC 20554

*Commissioner Andrew Barrett
Federal Communications Commission
1919 M Street, NW Room 826
Washington, DC 20554

*Commissioner Rachelle Chong
Federal Communications Commission
1919 M Street, NW - Room 844
Washington, DC 20554

*Commissioner Susan Ness
Federal Communications Commission
1919 M Street, NW - Room 832
Washington, DC 20554

*Robert M. Pepper, Chief
Office of Plans and Policy
Room 822
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

*Donald Gips, Deputy Chief
Office of Plans and Policy
Room 822
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

*Jonathan Cohen
Office of Plans and Policy
Room 814
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

*Evan Kwerel
Office of Plans and Policy
Room 822
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

*William E. Kennard, General
Counsel
Federal Communications Commission
Room 614
1919 M Street, NW
Washington, DC 20554

*Sara Seidman, Special Assistant
Office of General Counsel
Federal Communications Commission
Room 614
1919 M Street, NW
Washington, DC 20554

*Peter Tenhula
Office of General Counsel
Federal Communications Commission
Room 615
1919 M Street, NW
Washington, DC 20554

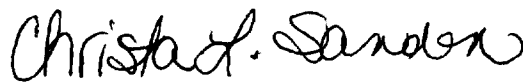
*ITS
Room 246
1919 M Street, NW
Washington, DC 20554

Debra L. Lee
Maurita K. Coley
Black Entertainment Television
1232 31st Street, NW
Washington, DC 20007

Leonard J. Kennedy
Laura H. Phillips
Richard S. Denning
Dow, Lohnes & Albertson
1255 23rd Street, NW
Washington, DC 20037

Mary McDermott
Linda Kent
United States Telephone
Association
Suite 600
1401 H Street, NW
Washington, DC 20005

* = Via hand delivery



Christa L. Sanden